



## Senate

General Assembly

**File No. 159**

February Session, 2018

Substitute Senate Bill No. 246

*Senate, April 3, 2018*

The Committee on Human Services reported through SEN. MOORE, M. of the 22nd Dist. and SEN. MARKLEY, J. of the 16th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT LIMITING AUTO REFILLS OF PRESCRIPTION DRUGS  
COVERED UNDER THE MEDICAID PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1      Section 1. (NEW) (*Effective from passage*) (a) The Commissioner of  
2      Social Services, subject to subsections (c) to (f), inclusive, of this  
3      section, may prohibit a pharmacy provider from automatically refilling  
4      certain prescription drugs for a medical assistance recipient, regardless  
5      of whether a recipient requests or consents to participation in an  
6      automatic prescription drug refill program. The Department of Social  
7      Services shall not make payment for a prescription drug refill without  
8      an explicit request for such payment from the recipient or the  
9      recipient's legal representative.
- 10      (b) The commissioner, in consultation with the Pharmaceutical and  
11      Therapeutics Committee established pursuant to section 17b-274d of  
12      the general statutes, as amended by this act, shall recommend the  
13      exemption of certain prescription drugs or classes of such drugs from

14 any prohibition on automatic prescription drug refills.

15 (c) The commissioner shall submit the recommendations developed  
16 pursuant to subsection (b) of this section to the joint standing  
17 committees of the General Assembly having cognizance of matters  
18 relating to appropriations and the budgets of state agencies and  
19 human services.

20 (d) Not later than thirty days after the date of their receipt of such  
21 recommendations, the joint standing committees shall hold a public  
22 hearing on the recommendations. At the conclusion of a public hearing  
23 held in accordance with the provisions of this section, the joint  
24 standing committees shall advise the commissioner of their approval,  
25 denial or modifications, if any, of the recommendations.

26 (e) If the joint standing committees do not concur, the committee  
27 chairpersons shall appoint a committee of conference which shall be  
28 composed of three members from each joint standing committee. At  
29 least one member appointed from each joint standing committee shall  
30 be a member of the minority party. The report of the committee of  
31 conference shall be made to each joint standing committee, which shall  
32 vote to accept or reject the recommendations. The report of the  
33 committee of conference may not be amended.

34 (f) If a joint standing committee rejects the report of the committee  
35 of conference, that joint standing committee shall notify the  
36 commissioner of the rejection and the commissioner's  
37 recommendations shall be deemed approved. If the joint standing  
38 committees accept the report, the committee having cognizance of  
39 matters relating to appropriations and the budgets of state agencies  
40 shall advise the commissioner of their approval, denial or  
41 modifications, if any, of the commissioner's recommendations. If the  
42 joint standing committees do not so advise the commissioner during  
43 the thirty-day period, the recommendations shall be deemed  
44 approved.

45 Sec. 2. Subsection (j) of section 17b-274d of the general statutes is

46 repealed and the following is substituted in lieu thereof (*Effective from*  
47 *passage*):

48 (j) The Pharmaceutical and Therapeutics Committee [may] shall also  
49 make recommendations to the department regarding (1) the prior  
50 authorization of any prescribed drug, and (2) what prescribed drug, if  
51 any, should be eligible for automatic refill.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	17b-274d(j)

***Statement of Legislative Commissioners:***

The provisions of Section 1(c) were rewritten for clarity and consistency with the other provisions of Section 1.

***HS***

*Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Social Services, Dept.	GF - Savings	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

The bill will result in a savings to the state Medicaid program to the extent the Department of Social Services prohibits automatic prescription refill enrollment for certain prescriptions for Medicaid beneficiaries. In addition, the bill prohibits payment for drug refills without the explicit consent of the beneficiary or their legal representative in accordance with the provisions of the bill. The savings will depend on the quantity and type of prescription refills avoided as a result of disallowing automatic refills, which is unknown. Connecticut as well as other state Medicaid programs do not currently collect and report information on automatic refill enrollment and the number of prescription refills avoided.<sup>1,2</sup> Connecticut's Medicaid program currently provides prescription coverage for approximately 800,000 beneficiaries. Total gross program expenditures in FY 17 were \$1.3 billion for 12.7 million prescriptions, which generated

<sup>1</sup> Source: *Medicaid: Additional Reporting May Help CMS Oversee Prescription- Drug Fraud Controls* (July 2015). GAO 15-390.

<sup>2</sup> Source: *Medicaid Drug Utilization Review State Comparison / Summary Report FFY 2016 Annual Report Prescription Drug Fee-For-Service Programs* (October 2017). Centers for Medicare and Medicaid Services.

approximately \$817 million in rebates.<sup>3</sup> Pharmacy expenditures accounted for approximately 22% of FY 17 total Medicaid expenditures of \$5.9 billion. For purposes of illustration, a 0.5% reduction in total program expenditures is approximately \$6.5 million.<sup>4</sup>

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject the reduction in the number of unnecessary prescription refills.

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<sup>3</sup> *Source:* Department of Social Services and Medicaid Expenditure Reports for SFY 17.

<sup>4</sup> This does not account for any potential related impact in pharmacy rebates, which are impacted by the type and quantity of prescriptions refilled.

**OLR Bill Analysis****sSB 246*****AN ACT LIMITING AUTO REFILLS OF PRESCRIPTION DRUGS COVERED UNDER THE MEDICAID PROGRAM.*****SUMMARY**

This bill allows the Department of Social Services (DSS) commissioner to prohibit pharmacy providers from automatically refilling certain prescription drugs for medical assistance recipients (e.g., Medicaid recipients) regardless of a recipient's consent or request to participate in such a program. It prohibits DSS from paying for a prescription refill unless it was explicitly requested by the recipient or his or her legal representative.

The bill requires the commissioner to recommend specific prescription drugs or classes of drugs to exempt from this prohibition, in consultation with the Pharmaceutical and Therapeutics (P&T) Committee (see BACKGROUND). Under the bill, the commissioner must submit these recommendations to the Appropriations and Human Services committees. The bill requires the P&T Committee to make recommendations to DSS on what prescribed drugs, if any, should be eligible for automatic refill.

The bill establishes a process for the Appropriations and Human Services committees to consider the recommendations (similar to the process required under existing law for Medicaid waivers (CGS § 17b-8)). The bill requires the committees to hold a public hearing on the prescription drugs recommended for automatic refill within thirty days of receipt. Following the hearing, the committees must advise the commissioner about whether they approve, deny, or wish to modify the recommendations.

If the joint standing committees disagree, the committee

chairpersons must appoint a committee of conference composed of three members, including at least one minority party member, from each joint standing committee. This committee of conference must report its decision, which cannot be amended, to each joint standing committee, which must vote to accept or reject it. If a joint standing committee rejects the committee of conference's report, that committee must notify the DSS commissioner of the rejection, and the commissioner's original recommendations are deemed approved.

If the joint standing committees accept the committee of conference's report, the Appropriations Committee must advise the commissioner of their decision to approve, deny, or modify the recommendations. If the joint standing committees do not advise the commissioner during the thirty-day period, the recommendations are deemed approved.

Finally, the bill requires, rather than allows, the P&T Committee to make recommendations to DSS about which prescribed drugs should require prior authorization.

EFFECTIVE DATE: Upon passage

## **BACKGROUND**

### ***Pharmaceutical and Therapeutics Committee***

By law, DSS's P&T Committee consists of 16 members, including physicians and other health care providers appointed by the governor. Among other things, the committee consults with DSS to adopt a preferred drug list for the state's Medicaid program (CGS § 17b-274d).

## **COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/16/2018)